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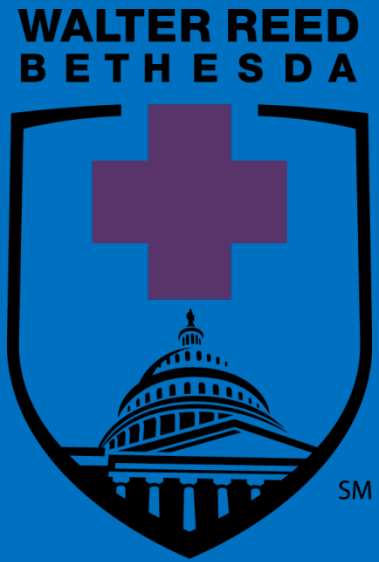

2012 Annual Ethics Training

Presented by

Office of the Staff Judge Advocate

LCDR Ken Ian, JAGC, USN

301 295 2215

Bldg 1, 6th Floor

COVERED TOPICS

- OVERVIEW OF CORE ETHICS LAWS & IMPLEMENTING REGULATIONS
- TEACHING, SPEAKING & WRITING RULES
- FUNDRAISING RULES
- PARTISAN POLITICAL ACTIVITY RULES

OVERVIEW OF ETHICS LAWS

Criminal Ethics Laws **that govern Federal service in summary:**

- **Don’t accept a bribe.**
- **Don’t represent or accept money for representing another’s interests before the U.S. Government.**
- **Don’t take official action that will affect your personal financial interests as well as those of your spouse, children and prospective employer.**
- **Don’t accept payment from another for the performance of your Federal duties.**

SEEKING & POST-GOVERNMENT EMPLOYMENT LAWS

SEEKING POST-GOVERNMENT EMPLOYMENT

RULE: **Under the conflict of interest law, when seeking post-Federal employment outside of the Federal Government, you MUST:**

- ***Disqualify*** **yourself from official participation**
- **In any particular matter**
- **That has a direct and predictable effect on the financial interests**
- **Of entities with whom you are discussing future employment.**

POST-GOVERNMENT EMPLOYMENT REPRESENTATIONAL BARS 18 U.S.C. § 207

After leaving the Federal Government, former employees are subject to additional CRIMINAL restrictions that may limit their interactions with the Federal Government when representing the interests of another person or entity.

BOTTOM LINE

These rules are *complicated, SO if* you:

- **Start looking for future employment or**
- **Want to understand how you will be permitted to interact with the Federal Government after you leave;**

ADDITIONAL ETHICS RULES

Overview

The Federal Standards of Conduct provide:

- ***Conflicting Financial Interests*. Employees must *disqualify* themselves from an official matter if that matter will affect their financial interests, unless an exception or exemption applies.**

- ***Impartiality*. (AKA, THE WASHINGTON POST TEST) Employees should *disqualify* themselves from taking action in an official matter if a reasonable person would have a basis to question their impartiality.**

ADDITIONAL ETHICS RULES

- ***Misuse of Position***. **Employees may not use Government resources, including their official position and the authority of their office, for private gain, whether by:**
  - **improper endorsement,**
  - **disclosure of non-public information, or**
  - **misuse of Government resources, including official time of themselves or subordinates.**

ADDITIONAL ETHICS RULES

- ***Gifts from outside sources***. **Employees may not solicit or accept gifts from outside sources given because of their official position or by a prohibited source, unless an exception or exclusion applies.**
- ***Gifts between Employees***. **Superiors should not accept and employees should not give gifts to superiors, unless an exception applies.**
- ***Group Gifts***. **For departing officials**:

  —**contributions must be strictly *voluntary;***

ADDITIONAL ETHICS RULES

- ***Prior Approval for certain employment*: Current financial disclosure filers must obtain prior written approval for off-duty non-Federal employment with a prohibited source (e.g., a defense contractor) before engaging in the**

TAKE AWAY!

⇛ **The rules set a minimum standard of conduct**

 The question you should be asking is, even if legal, is my proposed action the right thing to do?

 ***Ask whether your actions*:**

- **Are in the best interest of DoD;**
- **Serve to enhance public confidence in DoD programs and operations; or**
- **Will cause the public to question your**

TEACHING, SPEAKING & WRITING (TSW)

TSW GENERAL RULES

- **Under law and implementing regulations, Federal personnel may, under certain conditions and with prior approval from a supervis**
  - **teach**
  - **engage in public speak**
  - **and write scholarly arti**

THE MOST IMPORTANT QUESTIONS WHEN CONSIDERING TEACHING, SPEAKING, AND WRITING (TSW) OPPORTUNITIES

- **Are you being offered compensation for your TSW?**
- **Is the TSW “related” to your Federal job?**
- **What prior approvals and clearances are required?**

TSW GOVERNING RULES

Criminal Prohibitions:

You MAY NOT accept compensation from any non-Federal source for performing your Federal duties (your job). 18 U.S.C. 209.

You MAY NOT take any official action that has a direct and predictable effect upon your financial interests (including the interests of an entity which has offered to compensate you for TSW. 18 U.S.C. 208.

Administrative Rule

You MAY NOT accept compensation for TSW that relates to your Federal job. 5 C.F.R. 2635.807. A violation may result in disciplinary action including separation.

TSW RELATES TO YOUR DOD DUTIES IF:

- **It is undertaken as part of your duties;**
- It is **offered PRIMARILY because of your position,** not your subject matter expertise;
- The **offeror's interests** may be affected substantially by performance or nonperformance of your job;
- The **activity "draws substantially"** on ideas/data that are **nonpublic information**; **or**

TSW RELATES TO YOUR DOD DUTIES IF:

- The TSW **subject matter deals "in significant part"** with:
  - Matters to which you're assigned, or were assigned during the previous year;
  - Ongoing or announced DoD policies, programs, or o

NEED FOR A DISCLAIMER

IF you use your military or civilian grade, title, or position as one of several biographical details given to identify yourself in connection with TSW, you need to publish a disclaimer IF:

- ***The subject deals in significant part with any ongoing or announced policy, program or operation of your DoD Agency; and***
- ***You have not been authorized by appropriate Agency authority to present that material as the Agency's position.***

TEACHING CLASSES

- With agency approval, you are permitted to
- Teach a course (multiple presentations*) and receive compensation if it is
- Offered as part of either:
  - The regular curriculum of qualifying institutions of higher learning;
  - Elementary schools; or
  - Secondary schools.

  OR
- Is a program of education/training sponsored and funded by the Federal Gov't or by a state/local gov't other than those above.

* If multiple presentations are not involved, this should be viewed as a speaking engagement with payment viewed as honoraria.

NON-CAREER SES EMPLOYEES

To receive compensation for teaching you must:

- **Submit a written request to the Designated Agency Ethics Official (DAEO) AND**
- **Receive specific authorization from the DAEO in advance.**

TRAVEL AND MEAL EXPENSES PROVIDED IN CONNECTION WITH TSW

Under certain situations, travel and meal expenses may be accepted. Consult your ethics official for advice in advance in those circumstances.

SECURITY REVIEW FOR RELEASE OF INFORMATION

A security review is generally required before releasing official information to the public consistent with DoD Instruction 5230.29.

TEST YOUR KNOWLEDGE

- **You receive an invitation, at the office, inviting you to speak at an event hosted by a non-Federal entity. The sponsor of the event offers to pay you an honorarium for speaking. The topic of the speech is related to your area of expertise and to your DoD duties. May you speak and accept the honorarium at the event?**

TEST YOUR KNOWLEDGE

Pick the correct answer:

1. **Without consulting your supervisor, you decide that speaking at the event will further DoD's mission, so, you accept the invitation and the honorarium.**
2. **After consulting your boss, who concludes your speaking at the event will support DoD's mission, you accept the invitation and the honorarium.**
3. **After consulting your boss, who concludes your speaking at the event will support DoD's mission, you accept the invitation but not the**

Select Answer: 1 2 3

FUNDRAISING

FUNDRAISING

What do you need to know?

- **Generally, *fundraising is prohibited* in the Federal workplace.**

- **The government must be neutral to retain the public's confidence, so we must ensure a level playing field for all non-Federal entities.**

FUNDRAISING

What is fundraising?

- **The raising of funds for a nonprofit er :**
  - **Soliciting funds;**
  - **Selling items; or**
  - **Employee official participation in the conduct of an event where any part of the cost of attendance or participation may be taken as a charitable tax deduction by a person incurring that cost.**

What is *not* fundraising?

- **In-kind collection of items (non-cash), like food or**

3 EXCEPTIONS TO THE FUNDRAISING BAN IN THE WORKPLACE

- **Combined Federal Campaign**
- **When the Director of the Office of Personnel Management authorizes a solicitation for emergencies or disasters**
- **Among the members for the benefit of the members**

COMBINED FEDERAL CAMPAIGN(CFC)

- **CFC is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations**
- **Campaign period generally runs from September through December annually when no other solicitation in the Federal workplace may occur**
- **DoD personnel participation may be encouraged but is not mandated**
- **DoD personnel may *NOT* :**
  - **Encourage contributions to a specific charity, even if it is a CFC participant**
  - **Solicit non-DoD personnel or entities, including**

DISASTER OR EMERGENCY RELIEF

- **Defined: hurricanes, tornadoes, storms, floods or other catastrophes**
- **Only the Office of Personnel Management Director may grant permission for solicitations of Federal personnel in the Federal workplace outside of the CFC in support of victims of emergencies and disasters**
- **Recent examples include the Japanese**

AMONG THE MEMBERS FOR THE BENEFIT OF THE MEMBERS

- organizations composed primarily of DoD personnel and their dependents
- when fundraising among their own members for the benefit of welfare funds for their own members or their dependents
- when approved by the head of the DoD component command or organization
- after consultation with an ethics official (This includes Morale, Welfare and Recreation

ATTENDING A FUNDRAISER

General Rules

The Federal Standards of Conduct prohibit you, in your official capacity from "actively and visibly participating in the promotion, production, or presentation of the event." This include

- **Requesting or encouraging the giving of**
- **Serving as honorary chairperson;**
- **Sitting at the head table;**
- **Standing in a reception line; or**
- **Serving as master of ceremonies.**

But *NOTE*:

- **You may give an official speech at a non-profit fundraiser as long as you do not seek donations or**

FUNDRAISING

- **May Federal Personnel participate in fundraising in their personal capacity?**
  Yes, provided fundraising activities are conducted outside the Federal workplace and on personal time.
  So be careful not to:
  - **Use DoD resources, including email and photocopiers**
  - **Participate in your official capacity (do not allow use of your title or other DoD affiliation)**
  - **Solicit subordinates, DoD contractors, or other**

TEST YOUR KNOWLEDGE

You are asked to sell tickets to subordinates in the workplace for a fundraising event sponsored by a nonprofit organization that helps military spouses. May you sell the tickets?

- **No. This fundraising event has not been authorized either by CFC or by the Director of OPM, and it is not a fundraiser among the members of your organization for the benefit of the members of your organization. Further, superiors may never solicit subordinates.**
- **Yes, it is for a good cause that supports military families, so,**

Select Answer: | No | Yes

HATCH ACT

Restrictions on Partisan Political Activities of Civilians

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Restrictions on Partisan Political Activities of Civilians

RULE: The Hatch Act restricts partisan political activities of civilian DoD employees.

- **DoD policy further restricts the partisan political activities of certain political appointees.**

Military Personnel: Have similar rules which are described in DoD Directive 1344.10, Political Activities by Members of

HATCH ACT

Restrictions on Partisan Political Activities of Civilians

General Policy Highlights: At DoD there are two categories of civilian employees - "further" and "less" restricted.

- **Further Restricted: Presidential appointees confirmed by the Senate; non-career and career Senior Executive Service employees; Members of the Contract Appeals Board; and employees of NSA, DIA, NGA (e.g., strictly limited).**
- **Less Restricted. All others. Generally, most DoD civilians (GS, WG, Schedule C, etc.) may**

What is Political Activity?

Political Activity **is an activity directed toward the success or failure of:**

- **a political party;**
- **a candidate for partisan political office (beginning with fundraising or declaration of candidacy); OR**
- **a partisan political group**

Non-Partisan**. Any activity not associated with the success of a political party or candidate for partisan political office.**

What is Political Activity?

Examples of Political Activity:

- **Serving as a delegate to a political party convention**
- **Wearing a partisan political button in the office**
- **Working for a political party at the polls on election day**
- **Using office email to forward campaign information**
- **Soliciting contributions for a candidate**

What is Not Political Activity?

Not Partisan. **Activity of a non-partisan nature, including:**

- **Participating in non-partisan activities of a civic, community, social, labor, or professional organization, such as nonpartisan voter registration efforts**
- **Campaigning for or against non-partisan issues, such as referendum questions, constitutional amendments, or municipal reforms**
- **Taking an active part, as a candidate or in support of a candidate, in a non-partisan election (e.g., referendum questions, municipal ordinance)**

All DoD Civilians …

MAY:

- **Vote**
- **Make a financial contribution to a campaign**
- **Express personal opinions about candidates and issues**
- **Sign nominating petitions**
- **Attend political rallies and meetings**
- **Participate in nonpartisan activities**

All DoD Civilians …

MAY NOT

- **Run for partisan office**
- **Engage in political activity ON DUTY or IN THE FEDERAL WORKPLACE (do not use DoD email account!)**
- **Solicit, accept, or receive political contributions**
- **Misuse official authority to affect an election**

TEST YOUR KNOWLEDGE

Scenario 1: Brad receives a hilarious email that spoofs the current candidates for President on his DoD email account while at work. Has Brad violated the Hatch Act?

POSSIBLE ANSWERS:

- **No, simply receiving a partisan political e-mail while at work, does not constitute prohibited political activity as defined under the Hatch Act. However, Brad must not send or forward the e-mail to others.**
- **Yes, receiving a... e-mails on government**

Select Answer: | No | Ye

Less Restricted Civilians…

MAY:

- **Join and be active members of a political party or club (organize political meetings or rallies, distribute campaign literature, serve as officer or delegate of a political party or campaign, volunteer at candidate's campaign office)**

- **Help organize political fundraising events (but no soliciting, accepting, or**

Further Restricted Civilians ...

MAY NOT:

- **Take an active role in partisan political management or political campaigns**
- **Distribute campaign literature for a candidate for partisan office**
- **Organize a political rally or fundraiser for a political party**
- **Hold political party office or be a delegate to a party convention**
- **Host a fundraiser for a candidate for partisan office**

TEST YOUR KNOWLEDGE

<u>Scenario 2</u>: Susan is a career SES employee (further restricted). She has been invited to attend a fundraiser for a partisan candidate.

May she attend?

Possible answers

- **No, she may not attend. Further restricted employees are prohibited from taking an active part in all partisan activities.**
- **Yes, she may at[illegible] n [illegible]lunteer or work for the candidate at the fundraising event.**

Select Answer: No Yes

Hatch Act Penalty

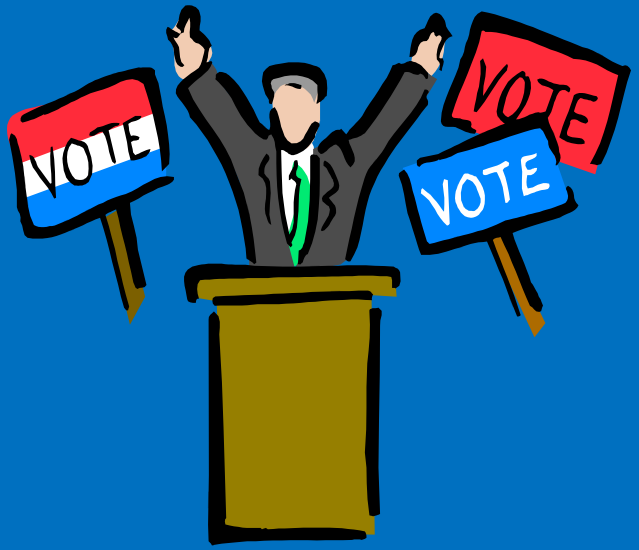
The Office of Special Counsel (OSC) has exclusive jurisdiction over investigation and enforcement of the Hatch Act rules.

BEWARE! **DoD civilians must scrupulously comply with the Hatch Act restrictions.**

PENALTY:

- **Political Appointees. OSC will make a recommendation for discipline to the White House.**
- **All Others. *Removal*. For most employees, the Hatch Act imposes a presumptive penalty of removal from Federal service for a knowing violation. The minimum penalty for a Hatch Act**

NOW, A QUICK WORD ON POLITICAL FUNDRAISING



DON'T ENGAGE IN POLITICAL FUNDRAISING

Authority to do so is very limited.
Seek ethics guidance first. PLEASE!!

POLITICAL FUNDRAISING

Generally, DoD personnel may *NOT* solicit, accept, or receive political contributions in either an official or personal capacity, *except* under a narrow exception for Federal unions.

Employees are prohibited 24 hours a day, 7 days a week (except for the limitation noted above) from soliciting, accepting, or receiving political contributions.

DAEO Contact Information

- **[ORGANIZATION NAME] Designated Agency Ethics Official (DAEO):**
  [INSERT DAEO NAME/TITLE].
- **DoD Alternate DAEO: [INSERT DAEO NAME/TITLE].**
- **Deputy DAEOs/Ethics Counselors:**
  - **[INSERT DAEO NAME/TITLE]**
  - **[INSERT DAEO NAME/TITLE]**
- **Contact Ethics Office at: [INSERT CONTACT INFORMATION]**

CONCLUSION

- **Congratulations! Your 2012 Annual Ethics Training is complete. Thank you for your compliance with U.S. Government Ethics requirements.**
- **To receive credit for this training, you *must* click the "Submit Certificate" button below.**
- **NOTE: *By submitting your certificate you are certifying that you personally completed the entire Training Module*.**

Submit Certificate